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MAY 29 2003

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3800

Paper No. 20

In re Application of Joseph et al.

Appl. No. 09/672,523

Filed: September 27, 2000

For: APPARATUS FOR TRANSMITTING AND

RECEIVING EXECUTABLE APPLICATIONS AS FOR A

MULTIMEDIA SYSTEM, AND SYSTEM TO ORDER

AN ITEM USING A DISTRIBUTED COMPUTING
SYSTEM

**RESPONSE TO PETITION
UNDER 37 CFR 1.59**

This is a response to the petition under 37 CFR 1.59(b), filed December 10, 2002, to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Petitioner requests that documents entitled "Comm. Frame Specification", "SkyPix System Design", "SkyPix System Specification", "Menu Object Data Specification", "Specification" Doc. 921071-A-02-02-0.4, "Specification" Doc. 900171-F-10-01-2.0, "Critical Issues Update", "Memorandum Subject: Fractional Channel...", "Menu Object, Description...", "Menu Header, Description...", all from Adaptive Micro-Ware, Inc., filed December 10, 2002, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(h) has been paid.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material

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requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be returned to applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh X. Nguyen whose telephone number is (703) 305-3522. The examiner can normally be reached on Monday to Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax telephone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

This application will be forwarded to the examiner for prompt examination.



John J. Love, Director
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(703) 308-1020
(703) 306-4597 (facsimile)

JJL:dxn:5/7/03